

EXHIBIT A



Via Facsimile

July 16, 2018

United States Department of State
2201 C Street NW
Washington, DC 20520
Phone: (202) 647-4000
Fax: (202) 261-8579

**Re: FREEDOM OF INFORMATION ACT REQUEST FOR ANY AND ALL
DOCUMENTS RELATING TO THE SETTLEMENT REACHED BETWEEN
THE PARTIES IN *DEFENSE DISTRIBUTED V. UNITED STATES*
DEPARTMENT OF STATE**

Dear Sir or Madam:

Pursuant to the provisions of the Freedom of Information Act ("FOIA") 5 U.S.C. § 522 *et seq.*, The Brady Center to Prevent Gun Violence ("Brady Center") hereby requests that the United States Department of State ("DOS") produce copies of the following records relating to the settlement reached between the parties in *Defense Distributed v. United States Department of State*, Case No. 15-50759 before the U.S. Court of Appeals for the Fifth Circuit (Case No. 15-cv-372 in the Western District of Texas) and any other related change or proposed change to the International Trade in Arms Regulations ("ITAR"), including:

1. The settlement agreement reached between the parties in *Defense Distributed v. United States Department of State*. The term "parties" as used in this and the below requests includes, but is not limited to, DOS, Cody Wilson, Conn Williamson, Defense Distributed, Inc., Second Amendment Foundation, Inc., or their agents, attorneys, officers, employees, or representatives.
2. Any and all attachments, exhibits, or other documents accompanying the settlement agreement reached between the parties in *Defense Distributed v. United States Department of State*;
3. Any and all documents relating to implementation of the terms of the settlement reached between the parties in *Defense Distributed v. United States Department of State*;
4. Any and all documents and communications regarding any decision to change the International Trade in Arms Regulations ("ITAR") or any other export control rules and regulations regarding firearms that are below .50 caliber, and to move any oversight of such rules to the Commerce Department;

5. Any and all documents relating to the DOS's communications plan to disclose the terms of the *Defense Distributed v. United States Department of State* settlement to the public, or to disclose any of the above-referenced regulation or policy changes, including drafts of DOS press releases and any other forthcoming or potential public statements;
6. Any and all documents explaining the policies and procedures that guided DOS in reaching the settlement in *Defense Distributed v. United States Department of State*;
7. Any and all communications between DOS employees, and between DOS employees and third parties, relating to the settlement reached between the parties in *Defense Distributed v. United States Department of State*. The term "third parties" includes, but is not limited to, other executive agencies, the White House, Congress, the National Rifle Association, the National Shooting Sports Foundation, any firearm manufacturer, distributor or dealer, or their agents, attorneys, officers, employees or representatives.

FORMAT AND PRODUCTION REQUESTS

The term "document" shall mean all of the following, without limitation and by way of description: (a) all printed materials of every kind whatsoever; (b) all handwritten materials of every kind whatsoever; (c) all materials in electronic media regardless of the forms of such media, including emails; (d) all drafts of subject documents; (e) all documents referenced in subject documents, including those noted as exhibits and attachments, as well as those referenced in the bodies of subject documents or in footnotes to subject documents; (f) all documents, otherwise identified, but containing marginal or other annotations, handwritten or otherwise; (g) all documents in the form of transcripts of meetings and telephone conversations and memoranda of such meetings and telephone conversations, whether printed or handwritten; (h) to the extent not covered by the definitions in (a)-(g), all materials generated by or received by any government employee, consultant or other person having any relationship to the government; (i) to the extent not covered by the definitions in (a)-(h), all materials generated by any person not in the employ of the government, including but not limited to lawyers, foreign government officials of every level, other interested parties and non-parties to any communications on any relevant subject.

Responsive documents are requested to be produced in their entirety, including all attachments, enclosures, and exhibits. FOIA regulations provide that, if some parts of records containing the requested information fall within the statutory exemptions to mandatory disclosure, the non-exempt material shall be disclosed after the exempt material has been deleted. *See* 5 U.S.C. § 522(b); 28 C.F.R. § 16.6. Accordingly, if DOS determines that some portion of a record that is otherwise responsive to this request is exempt, we request that DOS provide a copy of all reasonably segregable, non-exempt portions of the record. If the requested records are not in the possession of DOS or its agents, we request that DOS identify all federal agencies and/or other individuals and entities believed to possess such documents. To the extent that DOS determines that any subject document cannot be disclosed, we request that such documents be identified in accordance with *Vaughn v. Rosen*, 523 F.2d 1136.

We further request that, pursuant to 5 U.S.C. § 522(a)(3)(B), DOS produce responsive documents in the native electronic format in which the document was created. To the extent that DOS is unable to produce the responsive documents in the requested format, we request confirmation that the record does not exist in native format and production of the documents in the following format, listed in order of our preference: (1) PDF format; or (2) paper copy.

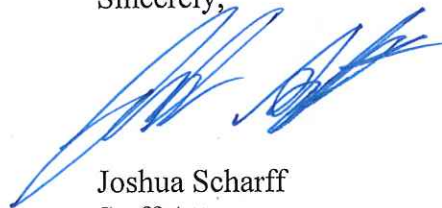
We request that DOS produce these documents within twenty (20) working days as required by FOIA. Additionally, in accordance with Section 7 of the OPEN Government Act of 2007, Pub. L. No. 110-175, and pursuant to Attorney General Holder's FOIA Memorandum of March 19, 2009, we request that DOS provide the individualized tracking number associated with this request should the request take longer than 10 days to process.

FEE WAIVER REQUEST

Pursuant to 31 C.F.R. § 1.7(d), this request qualifies for a fee waiver because the requested information will be used for a public interest purpose and not for commercial purposes. The Brady Center is a 501(c)(3) non-profit dedicated to creating a safer America by cutting gun deaths in half by 2025. The requested information will be used to educate the public and further this goal. In the past, federal agencies have granted the Brady Center (previously known as the Center to Prevent Handgun Violence) a fee waiver under like circumstances. *See Center to Prevent Handgun Violence v. United States Department of Treasury*, 49 F.Supp.2d 3, 5 (D.D.C. 1999) (acknowledging the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)'s past grant of a fee waiver to the Brady Center for a similar request of government records).

We appreciate your prompt consideration of this request. If you have any questions, or if we can be of any assistance in expediting this request, please contact us at (202) 370-8105.

Sincerely,



Joshua Scharff
Staff Attorney
Legal Action Project
Brady Center to Prevent Gun Violence

EXHIBIT B

August 16, 2018

The Honorable Mike Pompeo Secretary
United States Department of State 2201 C Street, NW
Washington, DC 20520

Dear Secretary Pompeo:

As you know, we remain gravely concerned about the potential for blueprints for three dimensional printed (3-D) guns becoming widely accessible to dangerous and prohibited people in the United States and globally. To stop this threat, the Department of State must take action now.

Defense Distributed previously released the blueprints that are now subject to the Temporary Restraining Order issued by the United States District Court for the Western District of Washington. The State Department initially stopped Defense Distributed from publishing the blueprints and maintained that allowing them to do so would endanger national security from 2013 until this past spring. That was the right approach, and one we at the Brady Center sought and applauded.

Earlier this year, the Trump Administration proposed changes to the export oversight rules that the State Department used to stop Defense Distributed back in 2013. The proposed rule changes would transfer oversight to Commerce Department, but they have not yet been finalized for implementation. Therefore, your department is still responsible for oversight of firearms exports under the International Traffic in Arms Regulations. This means that you are best positioned to safeguard America from the risks posed by foreign terrorists and other dangerous people gaining easy access to 3-D printed guns without benefit of a background check, armed with weapons potentially undetectable by metal detectors and untraceable by law enforcement because they lack metal components and serial numbers. Specifically, we call upon you to take the following immediate actions:

1. Issue cease and desist orders to any and all parties attempting to share blueprints of 3-D guns online, including Illinois State Representative Allen Skillicorn and the Firearms Policy Coalition and Firearms Policy Foundation of Sacramento, CA.
2. Instruct your department to comply with Brady's Freedom of Information Act request, calling for documents about the sudden change in approach to the Defense Distributed lawsuit. That request was submitted on July 16, 2018, and is now overdue. Brady has not received a single responsive document to date. If the State Department does not comply with its legal obligations regarding this request, Brady will be forced to file a lawsuit.
3. Meet with us to discuss the risks posed by the internet publication of 3-D printed gun blueprints and ways the Administration can protect national security and public safety.

It is critical to the safety of all Americans that you take action now. We would like to work with you and the Administration to constructively and cooperatively do exactly that. This is an unique opportunity to bring diverse interests and public safety leaders from all levels of government together to solve a shared concern for our national security. Please do not wait any further to address this grave matter.

Sincerely,

Avery Gardiner^[1]_{SEP}

Co-President

Brady Campaign

Kris Brown

Co-President

Brady Campaign

Nick Wilson

Executive Director

States United to Prevent Gun Violence

Josh Sugarmann

Executive Director

Violence Policy Center

John Lindsay-Poland

Coordinator

Project on US Arms in Mexico

Global Exchange

William D. Hartung

Director, Arms and Security Project

Center for International Policy

Adele Amodeo

Executive Director

California Public Health Association-North

Ladd Everett

Executive Director

One Pulse

Stephanie Bonne, MD

Co-Chair, Gun Violence Prevention Task Force

American Medical Women's Association

Po Murray

Chair

Newtown Action Alliance

EXHIBIT C

[REDACTED]

[REDACTED]

[REDACTED]

From: Roulakis, Stefanos N.
Sent: Friday, August 31, 2018 10:26 PM
To: Robinson, Kellie N <RobinsonKN@state.gov>
Cc: Waldron, Jon <Waldron@BlankRome.com>; Kimball, John D. <jkimball@BlankRome.com>; Glasner, Ariel S. <AGlasner@BlankRome.com>
Subject: Re: Brady Center FOIA Request - FOIA Request F-2018-05229 - FOIA Public Liaison

Many thanks for the update.

Stefanos N. Roulakis | BLANKROME
1825 Eye Street NW | Washington, D.C. 20006
O: 202.772.5958 | M: 626.437.0401 | sroulakis@blankrome.com

----- Original Message -----

From: "Robinson, Kellie N" <RobinsonKN@state.gov>
Date: Fri, Aug 31, 2018, 10:19 PM
To: "Roulakis, Stefanos N." <SRoulakis@BlankRome.com>
CC: "Waldron, Jon" <Waldron@BlankRome.com>, "Kimball, John D." <jkimball@BlankRome.com>, "Glasner, Ariel S." <AGlasner@BlankRome.com>
Subject: Re: Brady Center FOIA Request - FOIA Request F-2018-05229 - FOIA Public Liaison

Me. Roulakis:

Thank you for the update regarding the receipt of the acknowledgment letter. Please be advised that your concerns have been conveyed to my supervisor and I will continue to work cooperatively with you and to ensure that the necessary Department staff completes the processing of your request.

To date, I was unable to obtain any additional information. I have a staff member coordinating this effort and I will get an update Wednesday when he returns to the office after the holiday.

Sincerely,

Kellie

From: Roulakis, Stefanos N.

Date: August 31, 2018 at 5:15:28 PM EDT

To: Robinson, Kellie N

Cc: Waldron, Jon , Kimball, John D. , Glasner, Ariel S.

Subject: Re: Brady Center FOIA Request - FOIA Request F-2018-05229 - FOIA Public Liaison

Ms. Robinson:

I wanted to follow up on my email below and my voicemail earlier. In spite of what we discussed yesterday, we have not heard from you today on status. As I mentioned, we hope to work with your office in a cooperative fashion, but are disappointed that we did not hear back from you today. This is compounded by the fact that the response letter, which was received today, was sent more than 20 days after the request.

I hope we can discuss further next week, and that you have a good labor day weekend.

Best regards,

Stefanos

Stefanos N. Roulakis | BLANKROME

1825 Eye Street NW | Washington, D.C. 20006

O: 202.772.5958 | M: 626.437.0401 | sroulakis@blankrome.com

----- Original Message -----

From: "Roulakis, Stefanos N." <Sroulakis@BlankRome.com>

Date: Fri, Aug 31, 2018, 2:22 PM

To: "Robinson, Kellie N" <RobinsonKN@state.gov>

CC: "Waldron, Jon" <Waldron@BlankRome.com>, "Kimball, John D." <jkimball@BlankRome.com>, "Glasner, Ariel S." <AGlasner@BlankRome.com>

Subject: RE: Brady Center FOIA Request - FOIA Request F-2018-05229 - FOIA Public Liaison

Ms. Robinson:

I wanted to follow up on the below and just check in on any information we may be able to receive today. I also wanted to confirm that the client received the response letter.

Thank you again for your help.

Best regards,

Stefanos

Stefanos N. Roulakis | BLANKROME

1825 Eye Street NW | Washington, D.C. 20006

O: 202.772.5958 | M: 626.437.0401 | sroulakis@blankrome.com

From: Robinson, Kellie N [mailto:RobinsonKN@state.gov]

Sent: Thursday, August 30, 2018 2:55 PM

To: Roulakis, Stefanos N.

Cc: Waldron, Jon ; Kimball, John D.

Subject: RE: Brady Center FOIA Request - FOIA Request F-2018-05229 - FOIA Public Liaison

Mr. Roulakis:

This is written to confirm our telephone conversation this afternoon. The subject request was received and logged into our system on July 17, 2018. An acknowledgement letter dated August 27, 2018 should arrive soon. The FOIA control

number assigned is F-2018-05229. Please indicate the control number in the subject line on future correspondence. I will send an email by COB tomorrow with any information I am able to obtain.

Sincerely,

Kellie N. Robinson

U.S. Department of State

FOIA Program Manager/FOIA Public Liaison

Office of Information Programs and Services

Office: (202) 663-2222

Mobile: (202) 705-6786

RobinsonKN@state.gov

From: Roulakis, Stefanos N. <SRoulakis@BlankRome.com>

Sent: Thursday, August 30, 2018 1:59 PM

To: Robinson, Kellie N <RobinsonKN@state.gov>

Cc: Waldron, Jon <Waldron@BlankRome.com>; Kimball, John D. <jkimball@BlankRome.com>

Subject: Brady Center FOIA Request

Ms. Robinson:

We write on behalf of the Brady Center to Prevent Gun Violence as their counsel. Despite multiple attempts to reach your office, we have been unable to speak with the appropriate analyst regarding the attached July 16, 2018 request from the Brady Center to Prevent Gun Violence. This e-mail follows up on a letter from our client to Secretary Pompeo on August 16, 2018 mentioning the outstanding FOIA request, an unreturned voicemail from our client to your office on August 20, 2018 a voicemail I left yesterday which has yet to be returned, and my attempt to call the FOIA office today which was not answered despite being on hold for more than 1 hour.

This matter is time-sensitive and urgent. Please have the appropriate person call me as soon as possible or let me know how to get in touch with the appropriate point of contact to discuss the request.

Best regards,

Stefanos Roulakis

Stefanos N. Roulakis | BLANKROME

1825 Eye Street NW | Washington, D.C. 20006

O: 202.772.5958 | M: 626.437.0401 | sroulakis@blankrome.com

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EXHIBIT D



United States Department of State

Washington, D.C. 20520

AUG 27 2018

F-2018-05229

Joshua Scharff
Brady Center to Prevent Gun Violence
840 First Street NE, Suite 400
Washington, DC 20002

Dear Mr. Scharff,

This letter is to acknowledge receipt of your Freedom of Information Act (FOIA) request dated 7-16-2018, pursuant to FOIA 5 U.S.C. § 552, to the Department of State (DOS), in which you requested records relating to the settlement reached between the parties in *Defense Distributed v. United States Department of State*.

The Department of State, Office of Information Programs and Services (IPS) received your FOIA request on 7-16-2018. Your FOIA request was assigned the tracking number at the top of this letter. Please include the tracking number in all future communications concerning this FOIA request. In addition, we have placed your request in the complex category.

This Office has adopted a first in/first out practice of processing all incoming requests. Your request has been placed in chronological order based on the date of receipt and will be handled as quickly as possible. If you have any questions regarding the status of your request or to discuss any aspect of your request, you may contact our FOIA Requester Service Center or our FOIA Public Liaison via email at FOIAstatus@state.gov or by telephone at (202) 261-8484.

Sincerely,

A handwritten signature in blue ink, appearing to read "E. Stein".

Eric F. Stein, Director
Office of Information Programs and Services

EXHIBIT E

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: Segesvary, Louis S [mailto:SegesvaryLS@state.gov]

Sent: Tuesday, September 11, 2018 4:37 PM

To: Waldron, Jon

Subject: RE: FOIA Brady request F-2018-05229

Jon: This is fine. Thanks for working with us to streamline your request. We will now proceed with its processing.
Sincerely, Louis

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From: Waldron, Jon <Waldron@BlankRome.com>

Sent: Tuesday, September 11, 2018 1:45 PM

To: Roulakis, Stefanos N. <SRoulakis@BlankRome.com>; Segesvary, Louis S <SegesvaryLS@state.gov>

Cc: Glasner, Ariel S. <AGlasner@BlankRome.com>

Subject: RE: FOIA Brady request F-2018-05229

Dr. Segesvary

Following up to make sure you got this as I did not see a response.

Thanks,

Jon

Jonathan K. Waldron | Partner | BLANKROME

1825 Eye Street NW | Washington, DC 20006-5403
Phone: (202) 772-5964 | Cell: (703) 407-6349 | Fax: (202) 572-8391
Email: Waldron@BlankRome.com

From: Waldron, Jon
Sent: Monday, September 10, 2018 9:32 AM
To: Roulakis, Stefanos N. <SRoulakis@BlankRome.com>; Segesvary, Louis S <SegesvaryLS@state.gov>
Cc: Glasner, Ariel S. <AGlasner@BlankRome.com>
Subject: RE: FOIA Brady request F-2018-05229

Dr. Segesvary

I provide the following in Stefanos absence. How does the following revised succinct version work for you?

All documents, including emails and communications, relating to the terms of the settlement reached between the parties in *Defense Distributed v. United States Department of State*, including the preparatory work underlying the settlement, its details, and its terms of implementation, and documents with external consultants. Time frame is June 1, 2013 to the present. Excluded from this request are press summaries and releases already available publicly.

If this is acceptable then we would be pleased to send a revised FOIA request with this language. We will deal with ITAR separately. We would also like to discuss a production schedule with you at your convenience.

Regards,

Jon

Jonathan K. Waldron | Partner | BLANKROME
1825 Eye Street NW | Washington, DC 20006-5403
Phone: (202) 772-5964 | Cell: (703) 407-6349 | Fax: (202) 572-8391
Email: Waldron@BlankRome.com

From: Roulakis, Stefanos N.
Sent: Friday, September 7, 2018 3:12 PM
To: Segesvary, Louis S <SegesvaryLS@state.gov>
Cc: Glasner, Ariel S. <AGlasner@BlankRome.com>; Waldron, Jon <Waldron@BlankRome.com>
Subject: RE: FOIA Brady request F-2018-05229

Dr. Segesvary:

Thank you again for your help. We are waiting for the client to confirm the streamlining request, which we expect will happen with some minor modifications by Monday. We greatly appreciate your efforts to work with us and look forward to working with you on this request.

On a personal note, I will be out of the office through October 1 as my wife and I are expecting a baby tomorrow. My colleague Ariel Glasner will be filling in for me on this issue, as will Jon Waldron, a partner in our firm who was formerly in government and often works on FOIA related issues.

Thank you again for your help, and I hope you have a nice weekend.

Best regards,

Stefanos

Stefanos N. Roulakis | BLANKROME
1825 Eye Street NW | Washington, D.C. 20006
O: 202.772.5958 | M: 626.437.0401 | sroulakis@blankrome.com

From: Segesvary, Louis S [<mailto:SegesvaryLS@state.gov>]
Sent: Wednesday, September 5, 2018 5:35 PM
To: Roulakis, Stefanos N. <SRoulakis@BlankRome.com>
Subject: FOIA Brady request F-2018-05229

Stefanos: It was good talking to you today and gaining more clarity on the FOIA request you are shepherding for the Brady Center. As I noted, the reformulated, succinct version I am suggesting, which is below, would serve to expedite this request more rapidly. While more concise, its wording remains so comprehensive as to include most of the information being sought. It does exclude the content of paragraph four regarding ITAR however, since the request wanders way off course here to broach an entirely new topic.

“All documents relating to the terms of the settlement reached between the parties in *Defense Distributed v. United States Department of State* including the preparatory work underlying the settlement, its details, and its terms of implementation. Time frame is June 1, 2013 to the present. Excluded are press summaries and releases already available publicly.”

This version will necessarily result in a search for every document we have in our custody that mentions Defense Distributed and the State Department. As such, it will automatically bring up the related information you are seeking in your various paragraphs, such as “policies” and “procedures” associated with reaching the settlement.

Please let me know if this is acceptable to you. Sincerely, Louis

Louis S. Segesvary, Ph.D.
FOIA Litigation and Appeals Reviewer
A/GIS/IPS
United States Department of State
Washington, D.C. 20520
Tel. 202-261-8300

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EXHIBIT F

BLANKROME

1825 Eye Street NW | Washington, DC 20006
blankrome.com

Phone: (202) 772-5963

Fax: (202) 572-1434

Email: AGlasner@BlankRome.com

September 12, 2018

VIA FACSIMILE

Louis S. Segesvary, Ph.D.
FOIA Litigation and Appeals Reviewer
A/GIS/IPS
United States Department of State
2201 C Street NW
Washington, D.C. 20520
Phone: (202) 261-8300
Fax: (202) 261-8579

Re: Freedom of Information Act Request on Behalf of the Brady Center to Prevent Gun Violence

Dear Dr. Segesvary:

We write on behalf of our client, The Brady Center to Prevent Gun Violence (“Brady Center”), pursuant to the provisions of the Freedom of Information Act (“FOIA”) 5 U.S.C. § 522 *et seq.*, to amend the Brady Center’s July 16, 2018 FOIA request (the “July 16 FOIA Request”) to the United States Department of State (“DOS”) seeking copies of records relating to the settlement reached between the parties in *Defense Distributed v. United States Department of State*, Case No. 15-50759 before the U.S. Court of Appeals for the Fifth Circuit (Case No. 15-cv-372 in the Western District of Texas). This amended FOIA request supersedes the July 16 FOIA Request in its entirety as per our recent communications.

Accordingly, the Brady Center hereby requests that DOS produce copies of all documents, including emails and communications, relating to the terms of the settlement reached between the parties in *Defense Distributed v. United States Department of State*, including the preparatory work underlying the settlement, its details, and its terms of implementation, and documents with external consultants. The time frame of this request is June 1, 2013 to the present. Excluded from this request are press summaries and releases already available publicly.

We renew the Brady Center’s request for a fee waiver pursuant to 31 C.F.R. § 1.7(d), because the requested information will be used for a public interest purpose and not for commercial purposes. The Brady Center is a 501(c)(3) non-profit dedicated to creating a safer America by

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Louis S. Segesvary, Ph.D.

September 12, 2018

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cutting gun deaths in half by 2025. The requested information will be used to educate the public and further this goal. As mentioned in the July 16 FOIA Request, in the past, federal agencies have granted the Brady Center (previously known as the Center to Prevent Handgun Violence) a fee waiver under like circumstances.

We appreciate your prompt consideration of this request. If you have any questions, or if we can be of any assistance in expediting this request, please contact us at (202) 772-5963.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Ariel S. Glasner', with a stylized, flowing script.

Ariel S. Glasner

Cc: Joshua Scharff, the Brady Center (via email)

EXHIBIT G



1825 Eye Street NW | Washington, DC 20006
blankrome.com

Phone: (202) 772-5964
Fax: (202) 572-8391
Email: Waldron@BlankRome.com

October 3, 2018

VIA E-MAIL

Louis S. Segesvary, Ph.D.
FOIA Litigation and Appeals Reviewer
A/GIS/IPS
United States Department of State
2201 C Street NW
Washington, D.C. 20520
SegesvaryLS@state.gov

Re: Request to Expedite Processing of FOIA Request F-2018-05229

Dear Dr. Segesvary:

We write on behalf of our client, the Brady Center to Prevent Gun Violence (“Brady Center”), to request expedited processing of Freedom of Information Act (“FOIA”) Request F-2018-05229 (the “FOIA Request”), filed on July 16, 2018, pursuant to 22 C.F.R. § 171.11(f). The FOIA Request seeks copies of records relating to the settlement reached between the parties in *Defense Distributed v. United States Department of State*, Case No. 15-cv-372 (W.D. Tex.).

FOIA directs agencies to provide expedited processing when a requestor demonstrates “compelling need.” 5 U.S.C. § 552(a)(6)(E)(i)(II). As set forth in the applicable regulations, a “compelling need” is deemed to exist where the requester can demonstrate one of the following:

- (1) Failure to obtain requested information on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of an individual.
- (2) The information is urgently needed by an individual primarily engaged in disseminating information in order to inform the public concerning actual or alleged Federal government activity. Requesters must demonstrate that their primary activity involves publishing or otherwise disseminating information to the public in general, not just to a particular segment or group.

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Louis S. Segesvary, Ph.D.

October 3, 2018

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- (3) Failure to release the information would impair substantial due process rights or harm substantial humanitarian interests.

22 C.F.R. § 171.11(f).

A failure to expedite the FOIA Request in this instance could reasonably be expected to pose imminent threats to the life and physical safety of individuals residing in the United States and abroad. Accordingly, for the reasons set forth more fully below, the Brady Center has demonstrated a “compelling need” under 22 C.F.R. § 171.11(f), pursuant to which the FOIA Request should be processed expeditiously.

Background to Litigation

At the heart of the FOIA Request is the government’s settlement, with no justification whatsoever, and in apparent violation of the Administrative Procedure Act (“APA”), of a lawsuit filed by Defense Distributed against the U.S. Department of State and others. *Defense Distributed v. United States Dep’t of State*, No. 15-cv-372 (W.D. Tex.). This case arose after the State Department notified Defense Distributed that certain computer-aided design (“CAD”) files were potentially subject to the International Traffic in Arms Regulations (“ITAR”). These CAD files are essentially blueprints for the creation of guns and gun components via a three-dimensional (“3D”) printer. On May 8, 2013, the Directorate of Defense Trade Controls (“DDTC”) advised Defense Distributed that its publication of CAD files without authorization from the DDTC potentially violated the ITAR, specifically because the CAD files were being made available outside the United States. *See* DDTC Letter dated May 8, 2013 to Defense Distributed.

On May 6, 2015, Defense Distributed filed a lawsuit in the Western District of Texas seeking, *inter alia*, to enjoin the government from enforcing ITAR as to both the CAD files and any other files that Defense Distributed may create in the future. In defending against that lawsuit, the government stated it was “particularly concerned that [the] proposed export of undetectable firearms technology *could be used in an assassination, for the manufacture of spare parts by embargoed nations, terrorist groups, or to compromise aviation security overseas in a manner specifically directed at U.S. persons.*” Defendants’ Opposition to Plaintiffs’ Motion for a Preliminary Injunction, filed June 10, 2015 (ECF No 32).

Accepting the government’s arguments, the District Court denied the plaintiffs’ motion for a preliminary injunction, finding among other things that the public interest in national defense and national security outweighed any countervailing interests. The Fifth Circuit upheld the lower court’s ruling, *Defense Distributed v. United States Dep’t of State*, 838 F.3d 451 (5th Cir. 2016),

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Louis S. Segesvary, Ph.D.

October 3, 2018

Page 3

and the Supreme Court subsequently denied the plaintiffs' petition for a writ of certiorari earlier this year. *Defense Distributed v. Dep't of State*, 138 S. Ct. 638 (2018).

After the Supreme Court denied cert, the litigation proceeded in the District Court and the plaintiffs filed a Second Amended Complaint on March 16, 2018. *See* ECF Nos. 77, 88 and 90. On April 6, 2018, the government filed a motion to dismiss Defense Distributed's Second Amended Complaint arguing, among other things, that the government's restrictions on Defense Distributed's CAD files were narrowly tailored to the government's compelling interest in preventing the circumvention of laws restricting the export of firearms, particularly to hostile foreign state and non-state adversaries. Defendants' Motion to Dismiss Second Amended Complaint, filed April 6, 2018 (ECF No. 92).

Settlement Agreement in Reversal of Government's Position

On April 30, 2018, a mere three weeks after the government filed its motion to dismiss, Defense Distributed suddenly notified the District Court that the parties had reached a tentative settlement agreement and requested a stay of the case, which was granted. (ECF No. 93). The settlement agreement was executed by the parties on June 29, 2018 and made public on July 10, 2018. With no justification whatsoever and in violation of the APA, the government capitulated to Defense Distributed and agreed to completely abandon the numerous valid reasons it had asserted for blocking the publication of Defense Distributed's weapons plans.

The terms of the settlement allow Defense Distributed to publicly upload blueprints of firearms and firearm components to the Internet without government approval, so that any terrorist group or individual in the world with access to the Internet and a three-dimensional ("3D") printer can create guns and gun components, with modifications that make these weapons untraceable and undetectable.¹

On July 31, 2018, after becoming aware of the settlement agreement, President Trump tweeted that deregulating printable-gun files "doesn't seem to make much sense!" At a press briefing the following day on August 1, 2018, White House Press Secretary Sarah Sanders noted with respect to the settlement that defendants had "made a deal without the President's approval."

¹ Following the execution of the settlement agreement, a group of 19 states and the District of Columbia filed suit to bar the settlement agreement from being implemented. The plaintiff States successfully obtained a temporary restraining order and subsequently filed a motion for a preliminary injunction, which remains pending. *State of Washington v. U.S. Dep't of State*, No. 18-cv-01115 (W.D. Wash.).

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Louis S. Segesvary, Ph.D.

October 3, 2018

Page 4

The Brady Center Has a Compelling Need for the Information Requested

The time-sensitive terms of the settlement executed by the parties are troubling, dangerous, and potentially illegal. As a result, immediately upon learning about the settlement, the Brady Center submitted FOIA requests to the Department of State and the Department of Justice for additional information about the settlement and the surrounding circumstances. In the FOIA Request to the State Department, the Brady Center asked that the documents be produced within 20 days and offered to work with the State Department to expedite the request. The State Department initially failed to respond within the 20 days mandated by FOIA.

Following this, the State Department's FOIA Office assigned an analyst who was responsive and helpful in assisting us to streamline our FOIA request since receipt of the initial acknowledgement letter in order to obtain the requested documents. However, following that, when we asked when we could expect the production of at least some responsive documents, the State Department responded that the FOIA office has a backlog of approximately 10,000 requests and has a shortage of FOIA reviewers, so the State Department anticipated that it would take at least a few months to identify documents responsive to our FOIA request. We raised the possibility of a rolling production, but were told that cannot be done right now because the State Department has not even begun to identify responsive documents yet.

This inability to produce documents in a timely manner would subject the Brady Center to an inordinate delay given the urgency of the issues being addressed with the materials subject to the FOIA Request. The proposed processing times are clearly excessive given the Brady Center's compelling interest in the subject matter of the FOIA Request. *See* 22 C.F.R. § 171.11(f).

As mentioned in our request and in our phone conversations, the compelling nature of the FOIA Request stems from the State Department's underlying lawsuit with Defense Distributed. Simply put, the State Department and Justice Department suddenly and completely reversed their positions about the threats to public safety posed by plaintiffs' proposed actions. The settlement agreement threatens to undermine national security and the national defense of the United States by authorizing the posting and downloading of computer files allowing the fabrication of dangerous make-at-home firearms by any person anywhere in the world. These are the very concerns which prompted the government's intervention in the first place. Indeed, the information requested under the FOIA Request is critical precisely because it will help the Brady Center inform the public of the nature of the settlement action and determine a course of action to ensure that our national security is not threatened by the posting online of Defense Distributed's CAD files.

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Louis S. Segesvary, Ph.D.

October 3, 2018

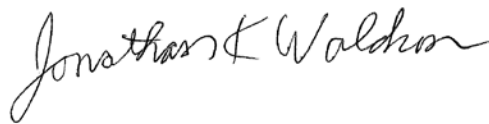
Page 5

The State Department's abrupt reversal on a matter of national security raises serious doubts about the propriety of its actions. For example, the State Department potentially exceeded its delegated authority by failing to provide the requisite notice to Congress and/or by failing to obtain the Secretary of Defense's concurrence to the terms of the settlement. It is also unclear whether the State Department's actions were proper in light of the President's public statements objecting to the settlement agreement.

Documents sought by the FOIA Request will provide critical information concerning the settlement and the circumstances behind it, including, for example, the reasons for the government's reversal of opinion and propriety of its decision to capitulate to Defense Distributed. This information is urgently needed in order to inform the public concerning the government's activity and to assist the Brady Center (and other potential litigants) in determining a way to prevent the posting online of Defense Distributed's CAD files. Because these CAD files pose very real threats to our national security and to individual lives, there is a compelling need for the FOIA Request to be processed expeditiously and thus this request clearly meets the "compelling need" standards under 5 U.S.C. § 552(a)(6)(E)(i)(II).

We appreciate your prompt consideration of this request. In accordance with 22 C.F.R. § 171.11(f), please provide notice of your determination whether to grant expedited processing within 10 calendar days of the date of the receipt of this request. If you have any questions, or if we can be of any assistance in expediting this request, please contact us at (202) 772-5963.

Sincerely,

A handwritten signature in black ink, reading "Jonathan K. Waldron". The signature is fluid and cursive, with the first name "Jonathan" and last name "Waldron" clearly distinguishable.

Jonathan K. Waldron

Cc: Joshua Scharff, the Brady Center (via email)

EXHIBIT H



United States Department of State

Washington, D.C. 20520

October 23, 2018

F-2018-05229

Joshua Scharff
Brady Center to Prevent Gun Violence
840 First Street NE, Suite 400
Washington D.C. 20002

Dear Mr. Scharff:

The Department of State, Office of Information Programs and Services, acknowledged the receipt of your Freedom of Information Act (FOIA) request dated July 16, 2018, pursuant to FOIA 5 U.S.C. § 552, to the Department of State (DOS), in which you requested records relating to the settlement reached between the parties in *Defense Distributed v. United States Department of State*. Your request was modified on October 16, 2018 when you confirmed to the Department of State, Office of Information Programs and Services that you were seeking expedited processing.

The Department of State, Office of Information Programs and Services (IPS) received your original FOIA request on July 16, 2018. Your FOIA request was assigned the tracking number at the top of this letter. Please include the tracking number in all future communications concerning this FOIA request. We have placed your request in the expedited processing category.

This Office has adopted a first in/first out practice of processing all incoming requests. Your request has been placed in chronological order based on the date of receipt and will be handled as quickly as possible. If you have any questions regarding the status of your request, you may contact our FOIA Requester Service Center or our FOIA Public Liaison via email at FOIAstatus@state.gov or telephone at (202) 261-8484.

We appreciate your cooperation with Dr. Louis S. Segesvary in narrowing the scope of your request, which will assist the Department of State, Office of Information Programs and Services in processing your records.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jef/for".

Eric F. Stein, Director
Office of Information Programs and Services

EXHIBIT I



1825 Eye Street NW | Washington, DC 20006
blankrome.com

Phone: (202) 772-5963

Fax: (202) 572-1434

Email: AGlasner@BlankRome.com

December 10, 2018

Via Fed Ex

The Honorable Michael Pompeo Secretary
United States Department of State
2201 C Street NW
Washington, D.C. 20520

Re: FOIA Request F-2018-05229

Mr. Pompeo:

We write on behalf of our client, the Brady Center to Prevent Gun Violence (the “Brady Center”), with regard to the processing of Freedom of Information Act (“FOIA”) Request F-2018-05229 (“F-2018-05229”). F-2018-05229 was submitted to the State Department on July 16, 2018. We are writing in a final attempt to resolve this request expeditiously without litigation.

After not receiving an acknowledgement of receipt within 20 days as required under law, and after making several attempts to contact relevant FOIA personnel, the Brady Center, at the State Department’s suggestion, revised F-2018-05229 to facilitate its processing in a timely and expeditious manner. The State Department then approved the Brady Center’s request for expedited processing after the Brady Center demonstrated a compelling need for the information requested pursuant to 5 U.S.C. § 552(a)(6)(E)(i)(II) and 22 C.F.R. § 171.11(f). To date however—nearly five months after the original request was submitted and granted expedited processing status—the State Department has not produced any of the documents to which the Brady Center is entitled nor has it provided an estimated timetable for production. This is unacceptable.

The purpose of this submission is to request that the records to which the Brady Center is entitled under FOIA be produced no later than **January 14, 2019**. Though the Brady Center would greatly prefer to avoid litigation in this matter, if it does not receive a response to this letter by December 17, 2018 with the State Department’s agreement to produce documents in accordance with this timeframe, it will be left with no choice but to take legal action absent an acceptable explanation for further delay.

F-2018-05229 seeks copies of records relating to the settlement reached between the parties in *Defense Distributed v. United States Department of State*, Case No. 15-cv-372 (W.D. Tex.). Defense Distributed had initiated suit against the State Department in an effort to publish

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Honorable Michael Pompeo
December 10, 2018
Page 2

computer-aided design (“CAD”) files that act as blueprints for the creation of untraceable and undetectable guns and gun components for three-dimensional (“3D”) printers. Despite prevailing at every stage of the litigation against Defense Distributed, the State Department suddenly capitulated from its long-held position that the publication of such files without agency approval would violate the International Traffic in Arms Regulation (“ITAR”), and executed a settlement agreement favorable to Defense Distributed in June 2018.

Within days of learning of the purported terms of the settlement between the State Department and Defense Distributed, the Brady Center filed F-2018-05229 on July 16, 2018. A copy of F-2018-05229 is attached as Tab A. Despite the clear statutory requirement that an agency respond within 20 days to a FOIA request with a determination as to whether it will comply with the request, the State Department has failed to do so. The State Department also did not respond to the Brady Center’s formal request to expedite its FOIA request within the ten days required by statute and the agency regulations. Finally, and most importantly, the State Department has failed to process the FOIA request in a timely and expeditious manner as required under FOIA. It has been nearly five months since the Brady Center submitted its request, and the State Department has not yet produced a single responsive document. Accordingly, if the State Department is unable to commit to producing the documents to which the Brady Center is entitled under FOIA by the date certain set forth herein, the Brady Center will be left with no choice but to consider pursuing legal recourse.

The State Department Has Not Responded to or Processed F-2018-05229 as Required by Law

Under FOIA 5 U.S.C. §§ 552(a)(6)(A)(i), the State Department was required to respond to F-2018-05229 within 20 working days of receipt, by August 10, 2018. It did not respond within this time frame. On August 16, 2018, the Brady Center sent a letter to Secretary Pompeo requesting that he instruct the State Department to comply with the Brady Center’s outstanding FOIA request. A copy of the Brady Center’s letter to Secretary Pompeo is attached as Tab B. In addition, on August 20 and 29, 2018, the Brady Center left voicemails with the State Department that were not returned. On August 30, 2018, 14 days after the 20-day period for the State Department to respond to F-2018-05229 had passed, the Brady Center emailed the State Department’s FOIA Public Liaison requesting immediate compliance with F-2018-05229. In response to this email, the FOIA Public Liaison confirmed that F-2018-05229 had been received and was logged into the State Department’s system on July 17, 2018. A copy of the August 30, 2018 email exchange is attached as Tab C. The next day, the Brady Center received a letter from the State Department Office of Information Programs and Services providing formal acknowledgement of the receipt of F-2018-05229. A copy of the letter is attached as Tab D.

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Honorable Michael Pompeo
December 10, 2018
Page 3

The State Department subsequently advised the Brady Center that there was a substantial backlog of FOIA requests submitted to the agency. Via email dated September 5, 2018, from a State Department FOIA Litigation and Appeals Reviewer, the State Department provided proposed language for a more “succinct version” of F-2018-05229 that would “serve to expedite [the] request more rapidly.” A copy of the September 5, 2018 email is attached as Tab E. Thus, on September 12, 2018, at the behest of and in accordance with the State Department’s proposed language, the Brady Center submitted a revised FOIA request, by letter addressed to the State Department FOIA Litigation and Appeals Reviewer, that streamlined F-2018-05229 to a single request for documents. A copy of the amended F-2018-05229 is attached as Tab F.

The State Department did not notify the Brady Center within the required 10-day period of a determination whether it would comply with the FOIA request, as required by 5 U.S.C. § 552(a)(6)(A)(i), nor did it produce any documents responsive to F-2018-05229. Therefore, on October 3, 2018, the Brady Center submitted a formal request to the State Department, again via letter to the State Department FOIA Litigation and Appeals Reviewer, to expedite the processing of its FOIA request (the “Request to Expedite”) pursuant to 22 C.F.R. § 171.11(f) and 5 U.S.C. § 552(a)(6)(E)(i)(II). As set forth in the Request to Expedite, the Brady Center asserted a compelling need to obtain expeditiously the documents to which it was entitled under FOIA on the grounds, *inter alia*, that the documents were necessary to ensuring the physical safety of individuals residing in the United States and abroad. A copy of the Request to Expedite is attached as Tab G.

After receiving the Request to Expedite, the State Department FOIA Litigation and Appeals Reviewer requested that the Brady Center postpone submitting the Request to Expedite through the FOIA website. Regardless, the State Department is required to respond to a request to expedite a FOIA request within ten days of the request being submitted. *See* 22 C.F.R. § 171.11(f)(4) and 5 U.S.C. § 552(a)(6)(E)(ii)(I). The State Department did not do so. On October 16, 2018, the FOIA Request Service Center notified the Brady Center that the Request to Expedite had been forwarded to the Office of Information Programs and Services’ Requester Communications Branch for review and determination. Then, on October 23, 2018—twenty days after the Request to Expedite was submitted—the State Department notified the Brady Center that its Request to Expedite had been granted and that its FOIA request would be handled “as quickly as possible.” The State Department further thanked the Brady Center for working with the agency “in narrowing the scope of [its original] request” and advised the Brady Center that its revisions would “assist the Department of State...in processing [the] records.” A copy of the State Department’s October 23, 2018 notification letter is attached as Tab H.

Following the State Department’s approval of the Request to Expedite, undersigned counsel for the Brady Center has had several informal telephonic discussions with the State

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Honorable Michael Pompeo
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Page 4

Department FOIA Litigation and Appeals Reviewer regarding F-2018-05229. However, the Reviewer has not been able to inform the Brady Center when a search for all applicable documents covered by the FOIA request will be completed or when the State Department will produce the documents to which the Brady Center is entitled under FOIA. Moreover, on November 6, 2018, the Brady Center, through undersigned counsel, sent an inquiry to the email address foiastatus@state.gov, as directed in the October 23, 2018 notification letter, regarding the status of the processing of its FOIA request. To date, the Brady Center has received no response to its inquiry.

The State Department has yet to provide any formal notification to the Brady Center of its determination whether to comply with the FOIA request, nor has it produced any documents responsive to F-2018-05229.

The Brady Center Requests that the State Department Produce the Documents to Which it is Entitled under FOIA by January 14, 2018

The Brady Center has demonstrated a compelling need for the documents requested by F-2018-05229 and to which it is entitled under FOIA. Accordingly, the Brady Center requests that the State Department produce all responsive documents to which the organization is entitled under FOIA **no later than January 14, 2019**.

The Brady Center further requests a response to this letter no later than **December 17, 2018**. The Brady Center wishes to avoid pursuing litigation to obtain the records to which it is entitled under FOIA. However, if the State Department does not respond to this letter by December 17, or is unable to provide the documents by the date certain set forth herein, absent an acceptable explanation for further delay the Brady Center anticipates taking legal action to obtain the documents to which it is entitled in an expedited manner.

If you have any questions please contact us at (202) 772-5963.

Sincerely,



Ariel S. Glasner

Cc: Eric F. Stein, Director (via email)
Louis S. Segesvary, FOIA Litigation and Appeals Reviewer (via email)
Kellie N. Robinson, FOIA Program Manager / FOIA Public Liaison (via email)

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Honorable Michael Pompeo

December 10, 2018

Page 5

Joshua Scharff, the Brady Center (via email)

TAB A



Via Facsimile

July 16, 2018

United States Department of State
2201 C Street NW
Washington, DC 20520
Phone: (202) 647-4000
Fax: (202) 261-8579

**Re: FREEDOM OF INFORMATION ACT REQUEST FOR ANY AND ALL
DOCUMENTS RELATING TO THE SETTLEMENT REACHED BETWEEN
THE PARTIES IN *DEFENSE DISTRIBUTED V. UNITED STATES*
*DEPARTMENT OF STATE***

Dear Sir or Madam:

Pursuant to the provisions of the Freedom of Information Act ("FOIA") 5 U.S.C. § 522 *et seq.*, The Brady Center to Prevent Gun Violence ("Brady Center") hereby requests that the United States Department of State ("DOS") produce copies of the following records relating to the settlement reached between the parties in *Defense Distributed v. United States Department of State*, Case No. 15-50759 before the U.S. Court of Appeals for the Fifth Circuit (Case No. 15-cv-372 in the Western District of Texas) and any other related change or proposed change to the International Trade in Arms Regulations ("ITAR"), including:

1. The settlement agreement reached between the parties in *Defense Distributed v. United States Department of State*. The term "parties" as used in this and the below requests includes, but is not limited to, DOS, Cody Wilson, Conn Williamson, Defense Distributed, Inc., Second Amendment Foundation, Inc., or their agents, attorneys, officers, employees, or representatives.
2. Any and all attachments, exhibits, or other documents accompanying the settlement agreement reached between the parties in *Defense Distributed v. United States Department of State*;
3. Any and all documents relating to implementation of the terms of the settlement reached between the parties in *Defense Distributed v. United States Department of State*;
4. Any and all documents and communications regarding any decision to change the International Trade in Arms Regulations ("ITAR") or any other export control rules and regulations regarding firearms that are below .50 caliber, and to move any oversight of such rules to the Commerce Department;

5. Any and all documents relating to the DOS's communications plan to disclose the terms of the *Defense Distributed v. United States Department of State* settlement to the public, or to disclose any of the above-referenced regulation or policy changes, including drafts of DOS press releases and any other forthcoming or potential public statements;
6. Any and all documents explaining the policies and procedures that guided DOS in reaching the settlement in *Defense Distributed v. United States Department of State*;
7. Any and all communications between DOS employees, and between DOS employees and third parties, relating to the settlement reached between the parties in *Defense Distributed v. United States Department of State*. The term "third parties" includes, but is not limited to, other executive agencies, the White House, Congress, the National Rifle Association, the National Shooting Sports Foundation, any firearm manufacturer, distributor or dealer, or their agents, attorneys, officers, employees or representatives.

FORMAT AND PRODUCTION REQUESTS

The term "document" shall mean all of the following, without limitation and by way of description: (a) all printed materials of every kind whatsoever; (b) all handwritten materials of every kind whatsoever; (c) all materials in electronic media regardless of the forms of such media, including emails; (d) all drafts of subject documents; (e) all documents referenced in subject documents, including those noted as exhibits and attachments, as well as those referenced in the bodies of subject documents or in footnotes to subject documents; (f) all documents, otherwise identified, but containing marginal or other annotations, handwritten or otherwise; (g) all documents in the form of transcripts of meetings and telephone conversations and memoranda of such meetings and telephone conversations, whether printed or handwritten; (h) to the extent not covered by the definitions in (a)-(g), all materials generated by or received by any government employee, consultant or other person having any relationship to the government; (i) to the extent not covered by the definitions in (a)-(h), all materials generated by any person not in the employ of the government, including but not limited to lawyers, foreign government officials of every level, other interested parties and non-parties to any communications on any relevant subject.

Responsive documents are requested to be produced in their entirety, including all attachments, enclosures, and exhibits. FOIA regulations provide that, if some parts of records containing the requested information fall within the statutory exemptions to mandatory disclosure, the non-exempt material shall be disclosed after the exempt material has been deleted. *See* 5 U.S.C. § 522(b); 28 C.F.R. § 16.6. Accordingly, if DOS determines that some portion of a record that is otherwise responsive to this request is exempt, we request that DOS provide a copy of all reasonably segregable, non-exempt portions of the record. If the requested records are not in the possession of DOS or its agents, we request that DOS identify all federal agencies and/or other individuals and entities believed to possess such documents. To the extent that DOS determines that any subject document cannot be disclosed, we request that such documents be identified in accordance with *Vaughn v. Rosen*, 523 F.2d 1136.

We further request that, pursuant to 5 U.S.C. § 522(a)(3)(B), DOS produce responsive documents in the native electronic format in which the document was created. To the extent that DOS is unable to produce the responsive documents in the requested format, we request confirmation that the record does not exist in native format and production of the documents in the following format, listed in order of our preference: (1) PDF format; or (2) paper copy.

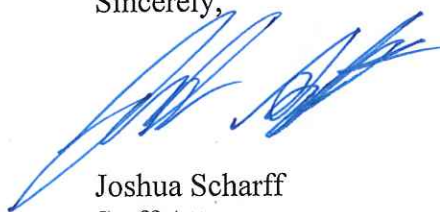
We request that DOS produce these documents within twenty (20) working days as required by FOIA. Additionally, in accordance with Section 7 of the OPEN Government Act of 2007, Pub. L. No. 110-175, and pursuant to Attorney General Holder's FOIA Memorandum of March 19, 2009, we request that DOS provide the individualized tracking number associated with this request should the request take longer than 10 days to process.

FEE WAIVER REQUEST

Pursuant to 31 C.F.R. § 1.7(d), this request qualifies for a fee waiver because the requested information will be used for a public interest purpose and not for commercial purposes. The Brady Center is a 501(c)(3) non-profit dedicated to creating a safer America by cutting gun deaths in half by 2025. The requested information will be used to educate the public and further this goal. In the past, federal agencies have granted the Brady Center (previously known as the Center to Prevent Handgun Violence) a fee waiver under like circumstances. *See Center to Prevent Handgun Violence v. United States Department of Treasury*, 49 F.Supp.2d 3, 5 (D.D.C. 1999) (acknowledging the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)'s past grant of a fee waiver to the Brady Center for a similar request of government records).

We appreciate your prompt consideration of this request. If you have any questions, or if we can be of any assistance in expediting this request, please contact us at (202) 370-8105.

Sincerely,



Joshua Scharff
Staff Attorney
Legal Action Project
Brady Center to Prevent Gun Violence

TAB B

August 16, 2018

The Honorable Mike Pompeo Secretary
United States Department of State 2201 C Street, NW
Washington, DC 20520

Dear Secretary Pompeo:

As you know, we remain gravely concerned about the potential for blueprints for three dimensional printed (3-D) guns becoming widely accessible to dangerous and prohibited people in the United States and globally. To stop this threat, the Department of State must take action now.

Defense Distributed previously released the blueprints that are now subject to the Temporary Restraining Order issued by the United States District Court for the Western District of Washington. The State Department initially stopped Defense Distributed from publishing the blueprints and maintained that allowing them to do so would endanger national security from 2013 until this past spring. That was the right approach, and one we at the Brady Center sought and applauded.

Earlier this year, the Trump Administration proposed changes to the export oversight rules that the State Department used to stop Defense Distributed back in 2013. The proposed rule changes would transfer oversight to Commerce Department, but they have not yet been finalized for implementation. Therefore, your department is still responsible for oversight of firearms exports under the International Traffic in Arms Regulations. This means that you are best positioned to safeguard America from the risks posed by foreign terrorists and other dangerous people gaining easy access to 3-D printed guns without benefit of a background check, armed with weapons potentially undetectable by metal detectors and untraceable by law enforcement because they lack metal components and serial numbers. Specifically, we call upon you to take the following immediate actions:

1. Issue cease and desist orders to any and all parties attempting to share blueprints of 3-D guns online, including Illinois State Representative Allen Skillicorn and the Firearms Policy Coalition and Firearms Policy Foundation of Sacramento, CA.
2. Instruct your department to comply with Brady's Freedom of Information Act request, calling for documents about the sudden change in approach to the Defense Distributed lawsuit. That request was submitted on July 16, 2018, and is now overdue. Brady has not received a single responsive document to date. If the State Department does not comply with its legal obligations regarding this request, Brady will be forced to file a lawsuit.
3. Meet with us to discuss the risks posed by the internet publication of 3-D printed gun blueprints and ways the Administration can protect national security and public safety.

It is critical to the safety of all Americans that you take action now. We would like to work with you and the Administration to constructively and cooperatively do exactly that. This is an unique opportunity to bring diverse interests and public safety leaders from all levels of government together to solve a shared concern for our national security. Please do not wait any further to address this grave matter.

Sincerely,

Avery Gardiner^[1]_{SEP}

Co-President
Brady Campaign

Kris Brown
Co-President
Brady Campaign

Nick Wilson
Executive Director
States United to Prevent Gun Violence

Josh Sugarmann
Executive Director
Violence Policy Center

John Lindsay-Poland
Coordinator
Project on US Arms in Mexico
Global Exchange

William D. Hartung
Director, Arms and Security Project
Center for International Policy

Adele Amodeo
Executive Director
California Public Health Association-North

Ladd Everett
Executive Director
One Pulse

Stephanie Bonne, MD
Co-Chair, Gun Violence Prevention Task Force
American Medical Women’s Association

Po Murray
Chair
Newtown Action Alliance

TAB C

[REDACTED]

[REDACTED]

[REDACTED]

From: Roulakis, Stefanos N.
Sent: Friday, August 31, 2018 10:26 PM
To: Robinson, Kellie N <RobinsonKN@state.gov>
Cc: Waldron, Jon <Waldron@BlankRome.com>; Kimball, John D. <jkimball@BlankRome.com>; Glasner, Ariel S. <AGlasner@BlankRome.com>
Subject: Re: Brady Center FOIA Request - FOIA Request F-2018-05229 - FOIA Public Liaison

Many thanks for the update.

Stefanos N. Roulakis | BLANKROME
1825 Eye Street NW | Washington, D.C. 20006
O: 202.772.5958 | M: 626.437.0401 | sroulakis@blankrome.com

----- Original Message -----

From: "Robinson, Kellie N" <RobinsonKN@state.gov>
Date: Fri, Aug 31, 2018, 10:19 PM
To: "Roulakis, Stefanos N." <SRoulakis@BlankRome.com>
CC: "Waldron, Jon" <Waldron@BlankRome.com>, "Kimball, John D." <jkimball@BlankRome.com>, "Glasner, Ariel S." <AGlasner@BlankRome.com>
Subject: Re: Brady Center FOIA Request - FOIA Request F-2018-05229 - FOIA Public Liaison

Me. Roulakis:

Thank you for the update regarding the receipt of the acknowledgment letter. Please be advised that your concerns have been conveyed to my supervisor and I will continue to work cooperatively with you and to ensure that the necessary Department staff completes the processing of your request.

To date, I was unable to obtain any additional information. I have a staff member coordinating this effort and I will get an update Wednesday when he returns to the office after the holiday.

Sincerely,

Kellie

From: Roulakis, Stefanos N.

Date: August 31, 2018 at 5:15:28 PM EDT

To: Robinson, Kellie N

Cc: Waldron, Jon , Kimball, John D. , Glasner, Ariel S.

Subject: Re: Brady Center FOIA Request - FOIA Request F-2018-05229 - FOIA Public Liaison

Ms. Robinson:

I wanted to follow up on my email below and my voicemail earlier. In spite of what we discussed yesterday, we have not heard from you today on status. As I mentioned, we hope to work with your office in a cooperative fashion, but are disappointed that we did not hear back from you today. This is compounded by the fact that the response letter, which was received today, was sent more than 20 days after the request.

I hope we can discuss further next week, and that you have a good labor day weekend.

Best regards,

Stefanos

Stefanos N. Roulakis | BLANKROME

1825 Eye Street NW | Washington, D.C. 20006

O: 202.772.5958 | M: 626.437.0401 | sroulakis@blankrome.com

----- Original Message -----

From: "Roulakis, Stefanos N." <Sroulakis@BlankRome.com>

Date: Fri, Aug 31, 2018, 2:22 PM

To: "Robinson, Kellie N" <RobinsonKN@state.gov>

CC: "Waldron, Jon" <Waldron@BlankRome.com>, "Kimball, John D." <jkimball@BlankRome.com>, "Glasner, Ariel S." <AGlasner@BlankRome.com>

Subject: RE: Brady Center FOIA Request - FOIA Request F-2018-05229 - FOIA Public Liaison

Ms. Robinson:

I wanted to follow up on the below and just check in on any information we may be able to receive today. I also wanted to confirm that the client received the response letter.

Thank you again for your help.

Best regards,

Stefanos

Stefanos N. Roulakis | BLANKROME

1825 Eye Street NW | Washington, D.C. 20006

O: 202.772.5958 | M: 626.437.0401 | sroulakis@blankrome.com

From: Robinson, Kellie N [mailto:RobinsonKN@state.gov]

Sent: Thursday, August 30, 2018 2:55 PM

To: Roulakis, Stefanos N.

Cc: Waldron, Jon ; Kimball, John D.

Subject: RE: Brady Center FOIA Request - FOIA Request F-2018-05229 - FOIA Public Liaison

Mr. Roulakis:

This is written to confirm our telephone conversation this afternoon. The subject request was received and logged into our system on July 17, 2018. An acknowledgement letter dated August 27, 2018 should arrive soon. The FOIA control

number assigned is F-2018-05229. Please indicate the control number in the subject line on future correspondence. I will send an email by COB tomorrow with any information I am able to obtain.

Sincerely,

Kellie N. Robinson

U.S. Department of State

FOIA Program Manager/FOIA Public Liaison

Office of Information Programs and Services

Office: (202) 663-2222

Mobile: (202) 705-6786

RobinsonKN@state.gov

From: Roulakis, Stefanos N. <SRoulakis@BlankRome.com>

Sent: Thursday, August 30, 2018 1:59 PM

To: Robinson, Kellie N <RobinsonKN@state.gov>

Cc: Waldron, Jon <Waldron@BlankRome.com>; Kimball, John D. <jkimball@BlankRome.com>

Subject: Brady Center FOIA Request

Ms. Robinson:

We write on behalf of the Brady Center to Prevent Gun Violence as their counsel. Despite multiple attempts to reach your office, we have been unable to speak with the appropriate analyst regarding the attached July 16, 2018 request from the Brady Center to Prevent Gun Violence. This e-mail follows up on a letter from our client to Secretary Pompeo on August 16, 2018 mentioning the outstanding FOIA request, an unreturned voicemail from our client to your office on August 20, 2018 a voicemail I left yesterday which has yet to be returned, and my attempt to call the FOIA office today which was not answered despite being on hold for more than 1 hour.

This matter is time-sensitive and urgent. Please have the appropriate person call me as soon as possible or let me know how to get in touch with the appropriate point of contact to discuss the request.

Best regards,

Stefanos Roulakis

Stefanos N. Roulakis | BLANKROME

1825 Eye Street NW | Washington, D.C. 20006

O: 202.772.5958 | M: 626.437.0401 | sroulakis@blankrome.com

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TAB D



United States Department of State

Washington, D.C. 20520

AUG 27 2018

F-2018-05229

Joshua Scharff
Brady Center to Prevent Gun Violence
840 First Street NE, Suite 400
Washington, DC 20002

Dear Mr. Scharff,

This letter is to acknowledge receipt of your Freedom of Information Act (FOIA) request dated 7-16-2018, pursuant to FOIA 5 U.S.C. § 552, to the Department of State (DOS), in which you requested records relating to the settlement reached between the parties in *Defense Distributed v. United States Department of State*.

The Department of State, Office of Information Programs and Services (IPS) received your FOIA request on 7-16-2018. Your FOIA request was assigned the tracking number at the top of this letter. Please include the tracking number in all future communications concerning this FOIA request. In addition, we have placed your request in the complex category.

This Office has adopted a first in/first out practice of processing all incoming requests. Your request has been placed in chronological order based on the date of receipt and will be handled as quickly as possible. If you have any questions regarding the status of your request or to discuss any aspect of your request, you may contact our FOIA Requester Service Center or our FOIA Public Liaison via email at FOIAstatus@state.gov or by telephone at (202) 261-8484.

Sincerely,

A handwritten signature in blue ink, appearing to read "E. Stein".

Eric F. Stein, Director
Office of Information Programs and Services

TAB E

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: Segesvary, Louis S [mailto:SegesvaryLS@state.gov]

Sent: Tuesday, September 11, 2018 4:37 PM

To: Waldron, Jon

Subject: RE: FOIA Brady request F-2018-05229

Jon: This is fine. Thanks for working with us to streamline your request. We will now proceed with its processing.
Sincerely, Louis

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From: Waldron, Jon <Waldron@BlankRome.com>

Sent: Tuesday, September 11, 2018 1:45 PM

To: Roulakis, Stefanos N. <SRoulakis@BlankRome.com>; Segesvary, Louis S <SegesvaryLS@state.gov>

Cc: Glasner, Ariel S. <AGlasner@BlankRome.com>

Subject: RE: FOIA Brady request F-2018-05229

Dr. Segesvary

Following up to make sure you got this as I did not see a response.

Thanks,

Jon

Jonathan K. Waldron | Partner | BLANKROME

1825 Eye Street NW | Washington, DC 20006-5403
Phone: (202) 772-5964 | Cell: (703) 407-6349 | Fax: (202) 572-8391
Email: Waldron@BlankRome.com

From: Waldron, Jon
Sent: Monday, September 10, 2018 9:32 AM
To: Roulakis, Stefanos N. <SRoulakis@BlankRome.com>; Segesvary, Louis S <SegesvaryLS@state.gov>
Cc: Glasner, Ariel S. <AGlasner@BlankRome.com>
Subject: RE: FOIA Brady request F-2018-05229

Dr. Segesvary

I provide the following in Stefanos absence. How does the following revised succinct version work for you?

All documents, including emails and communications, relating to the terms of the settlement reached between the parties in *Defense Distributed v. United States Department of State*, including the preparatory work underlying the settlement, its details, and its terms of implementation, and documents with external consultants. Time frame is June 1, 2013 to the present. Excluded from this request are press summaries and releases already available publicly.

If this is acceptable then we would be pleased to send a revised FOIA request with this language. We will deal with ITAR separately. We would also like to discuss a production schedule with you at your convenience.

Regards,

Jon

Jonathan K. Waldron | Partner | BLANKROME
1825 Eye Street NW | Washington, DC 20006-5403
Phone: (202) 772-5964 | Cell: (703) 407-6349 | Fax: (202) 572-8391
Email: Waldron@BlankRome.com

From: Roulakis, Stefanos N.
Sent: Friday, September 7, 2018 3:12 PM
To: Segesvary, Louis S <SegesvaryLS@state.gov>
Cc: Glasner, Ariel S. <AGlasner@BlankRome.com>; Waldron, Jon <Waldron@BlankRome.com>
Subject: RE: FOIA Brady request F-2018-05229

Dr. Segesvary:

Thank you again for your help. We are waiting for the client to confirm the streamlining request, which we expect will happen with some minor modifications by Monday. We greatly appreciate your efforts to work with us and look forward to working with you on this request.

On a personal note, I will be out of the office through October 1 as my wife and I are expecting a baby tomorrow. My colleague Ariel Glasner will be filling in for me on this issue, as will Jon Waldron, a partner in our firm who was formerly in government and often works on FOIA related issues.

Thank you again for your help, and I hope you have a nice weekend.

Best regards,

Stefanos

Stefanos N. Roulakis | BLANKROME
1825 Eye Street NW | Washington, D.C. 20006
O: 202.772.5958 | M: 626.437.0401 | sroulakis@blankrome.com

From: Segesvary, Louis S [<mailto:SegesvaryLS@state.gov>]
Sent: Wednesday, September 5, 2018 5:35 PM
To: Roulakis, Stefanos N. <SRoulakis@BlankRome.com>
Subject: FOIA Brady request F-2018-05229

Stefanos: It was good talking to you today and gaining more clarity on the FOIA request you are shepherding for the Brady Center. As I noted, the reformulated, succinct version I am suggesting, which is below, would serve to expedite this request more rapidly. While more concise, its wording remains so comprehensive as to include most of the information being sought. It does exclude the content of paragraph four regarding ITAR however, since the request wanders way off course here to broach an entirely new topic.

"All documents relating to the terms of the settlement reached between the parties in *Defense Distributed v. United States Department of State* including the preparatory work underlying the settlement, its details, and its terms of implementation. Time frame is June 1, 2013 to the present. Excluded are press summaries and releases already available publicly."

This version will necessarily result in a search for every document we have in our custody that mentions Defense Distributed and the State Department. As such, it will automatically bring up the related information you are seeking in your various paragraphs, such as "policies" and "procedures" associated with reaching the settlement.

Please let me know if this is acceptable to you. Sincerely, Louis

Louis S. Segesvary, Ph.D.
FOIA Litigation and Appeals Reviewer
A/GIS/IPS
United States Department of State
Washington, D.C. 20520
Tel. 202-261-8300

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TAB F

BLANKROME

1825 Eye Street NW | Washington, DC 20006
blankrome.com

Phone: (202) 772-5963

Fax: (202) 572-1434

Email: AGlasner@BlankRome.com

September 12, 2018

VIA FACSIMILE

Louis S. Segesvary, Ph.D.
FOIA Litigation and Appeals Reviewer
A/GIS/IPS
United States Department of State
2201 C Street NW
Washington, D.C. 20520
Phone: (202) 261-8300
Fax: (202) 261-8579

Re: Freedom of Information Act Request on Behalf of the Brady Center to Prevent Gun Violence

Dear Dr. Segesvary:

We write on behalf of our client, The Brady Center to Prevent Gun Violence (“Brady Center”), pursuant to the provisions of the Freedom of Information Act (“FOIA”) 5 U.S.C. § 522 *et seq.*, to amend the Brady Center’s July 16, 2018 FOIA request (the “July 16 FOIA Request”) to the United States Department of State (“DOS”) seeking copies of records relating to the settlement reached between the parties in *Defense Distributed v. United States Department of State*, Case No. 15-50759 before the U.S. Court of Appeals for the Fifth Circuit (Case No. 15-cv-372 in the Western District of Texas). This amended FOIA request supersedes the July 16 FOIA Request in its entirety as per our recent communications.

Accordingly, the Brady Center hereby requests that DOS produce copies of all documents, including emails and communications, relating to the terms of the settlement reached between the parties in *Defense Distributed v. United States Department of State*, including the preparatory work underlying the settlement, its details, and its terms of implementation, and documents with external consultants. The time frame of this request is June 1, 2013 to the present. Excluded from this request are press summaries and releases already available publicly.

We renew the Brady Center’s request for a fee waiver pursuant to 31 C.F.R. § 1.7(d), because the requested information will be used for a public interest purpose and not for commercial purposes. The Brady Center is a 501(c)(3) non-profit dedicated to creating a safer America by

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Louis S. Segesvary, Ph.D.

September 12, 2018

Page 2

cutting gun deaths in half by 2025. The requested information will be used to educate the public and further this goal. As mentioned in the July 16 FOIA Request, in the past, federal agencies have granted the Brady Center (previously known as the Center to Prevent Handgun Violence) a fee waiver under like circumstances.

We appreciate your prompt consideration of this request. If you have any questions, or if we can be of any assistance in expediting this request, please contact us at (202) 772-5963.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Ariel S. Glasner', with a stylized, flowing script.

Ariel S. Glasner

Cc: Joshua Scharff, the Brady Center (via email)

TAB G



1825 Eye Street NW | Washington, DC 20006
blankrome.com

Phone: (202) 772-5964

Fax: (202) 572-8391

Email: Waldron@BlankRome.com

October 3, 2018

VIA E-MAIL

Louis S. Segesvary, Ph.D.
FOIA Litigation and Appeals Reviewer
A/GIS/IPS
United States Department of State
2201 C Street NW
Washington, D.C. 20520
SegesvaryLS@state.gov

Re: Request to Expedite Processing of FOIA Request F-2018-05229

Dear Dr. Segesvary:

We write on behalf of our client, the Brady Center to Prevent Gun Violence (“Brady Center”), to request expedited processing of Freedom of Information Act (“FOIA”) Request F-2018-05229 (the “FOIA Request”), filed on July 16, 2018, pursuant to 22 C.F.R. § 171.11(f). The FOIA Request seeks copies of records relating to the settlement reached between the parties in *Defense Distributed v. United States Department of State*, Case No. 15-cv-372 (W.D. Tex.).

FOIA directs agencies to provide expedited processing when a requestor demonstrates “compelling need.” 5 U.S.C. § 552(a)(6)(E)(i)(II). As set forth in the applicable regulations, a “compelling need” is deemed to exist where the requester can demonstrate one of the following:

- (1) Failure to obtain requested information on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of an individual.
- (2) The information is urgently needed by an individual primarily engaged in disseminating information in order to inform the public concerning actual or alleged Federal government activity. Requesters must demonstrate that their primary activity involves publishing or otherwise disseminating information to the public in general, not just to a particular segment or group.



Louis S. Segesvary, Ph.D.

October 3, 2018

Page 2

- (3) Failure to release the information would impair substantial due process rights or harm substantial humanitarian interests.

22 C.F.R. § 171.11(f).

A failure to expedite the FOIA Request in this instance could reasonably be expected to pose imminent threats to the life and physical safety of individuals residing in the United States and abroad. Accordingly, for the reasons set forth more fully below, the Brady Center has demonstrated a “compelling need” under 22 C.F.R. § 171.11(f), pursuant to which the FOIA Request should be processed expeditiously.

Background to Litigation

At the heart of the FOIA Request is the government’s settlement, with no justification whatsoever, and in apparent violation of the Administrative Procedure Act (“APA”), of a lawsuit filed by Defense Distributed against the U.S. Department of State and others. *Defense Distributed v. United States Dep’t of State*, No. 15-cv-372 (W.D. Tex.). This case arose after the State Department notified Defense Distributed that certain computer-aided design (“CAD”) files were potentially subject to the International Traffic in Arms Regulations (“ITAR”). These CAD files are essentially blueprints for the creation of guns and gun components via a three-dimensional (“3D”) printer. On May 8, 2013, the Directorate of Defense Trade Controls (“DDTC”) advised Defense Distributed that its publication of CAD files without authorization from the DDTC potentially violated the ITAR, specifically because the CAD files were being made available outside the United States. See DDTC Letter dated May 8, 2013 to Defense Distributed.

On May 6, 2015, Defense Distributed filed a lawsuit in the Western District of Texas seeking, *inter alia*, to enjoin the government from enforcing ITAR as to both the CAD files and any other files that Defense Distributed may create in the future. In defending against that lawsuit, the government stated it was “particularly concerned that [the] proposed export of undetectable firearms technology *could be used in an assassination, for the manufacture of spare parts by embargoed nations, terrorist groups, or to compromise aviation security overseas in a manner specifically directed at U.S. persons.*” Defendants’ Opposition to Plaintiffs’ Motion for a Preliminary Injunction, filed June 10, 2015 (ECF No 32).

Accepting the government’s arguments, the District Court denied the plaintiffs’ motion for a preliminary injunction, finding among other things that the public interest in national defense and national security outweighed any countervailing interests. The Fifth Circuit upheld the lower court’s ruling, *Defense Distributed v. United States Dep’t of State*, 838 F.3d 451 (5th Cir. 2016),

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Louis S. Segesvary, Ph.D.

October 3, 2018

Page 3

and the Supreme Court subsequently denied the plaintiffs' petition for a writ of certiorari earlier this year. *Defense Distributed v. Dep't of State*, 138 S. Ct. 638 (2018).

After the Supreme Court denied cert, the litigation proceeded in the District Court and the plaintiffs filed a Second Amended Complaint on March 16, 2018. *See* ECF Nos. 77, 88 and 90. On April 6, 2018, the government filed a motion to dismiss Defense Distributed's Second Amended Complaint arguing, among other things, that the government's restrictions on Defense Distributed's CAD files were narrowly tailored to the government's compelling interest in preventing the circumvention of laws restricting the export of firearms, particularly to hostile foreign state and non-state adversaries. Defendants' Motion to Dismiss Second Amended Complaint, filed April 6, 2018 (ECF No. 92).

Settlement Agreement in Reversal of Government's Position

On April 30, 2018, a mere three weeks after the government filed its motion to dismiss, Defense Distributed suddenly notified the District Court that the parties had reached a tentative settlement agreement and requested a stay of the case, which was granted. (ECF No. 93). The settlement agreement was executed by the parties on June 29, 2018 and made public on July 10, 2018. With no justification whatsoever and in violation of the APA, the government capitulated to Defense Distributed and agreed to completely abandon the numerous valid reasons it had asserted for blocking the publication of Defense Distributed's weapons plans.

The terms of the settlement allow Defense Distributed to publicly upload blueprints of firearms and firearm components to the Internet without government approval, so that any terrorist group or individual in the world with access to the Internet and a three-dimensional ("3D") printer can create guns and gun components, with modifications that make these weapons untraceable and undetectable.¹

On July 31, 2018, after becoming aware of the settlement agreement, President Trump tweeted that deregulating printable-gun files "doesn't seem to make much sense!" At a press briefing the following day on August 1, 2018, White House Press Secretary Sarah Sanders noted with respect to the settlement that defendants had "made a deal without the President's approval."

¹ Following the execution of the settlement agreement, a group of 19 states and the District of Columbia filed suit to bar the settlement agreement from being implemented. The plaintiff States successfully obtained a temporary restraining order and subsequently filed a motion for a preliminary injunction, which remains pending. *State of Washington v. U.S. Dep't of State*, No. 18-cv-01115 (W.D. Wash.).

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Louis S. Segesvary, Ph.D.

October 3, 2018

Page 4

The Brady Center Has a Compelling Need for the Information Requested

The time-sensitive terms of the settlement executed by the parties are troubling, dangerous, and potentially illegal. As a result, immediately upon learning about the settlement, the Brady Center submitted FOIA requests to the Department of State and the Department of Justice for additional information about the settlement and the surrounding circumstances. In the FOIA Request to the State Department, the Brady Center asked that the documents be produced within 20 days and offered to work with the State Department to expedite the request. The State Department initially failed to respond within the 20 days mandated by FOIA.

Following this, the State Department's FOIA Office assigned an analyst who was responsive and helpful in assisting us to streamline our FOIA request since receipt of the initial acknowledgement letter in order to obtain the requested documents. However, following that, when we asked when we could expect the production of at least some responsive documents, the State Department responded that the FOIA office has a backlog of approximately 10,000 requests and has a shortage of FOIA reviewers, so the State Department anticipated that it would take at least a few months to identify documents responsive to our FOIA request. We raised the possibility of a rolling production, but were told that cannot be done right now because the State Department has not even begun to identify responsive documents yet.

This inability to produce documents in a timely manner would subject the Brady Center to an inordinate delay given the urgency of the issues being addressed with the materials subject to the FOIA Request. The proposed processing times are clearly excessive given the Brady Center's compelling interest in the subject matter of the FOIA Request. *See* 22 C.F.R. § 171.11(f).

As mentioned in our request and in our phone conversations, the compelling nature of the FOIA Request stems from the State Department's underlying lawsuit with Defense Distributed. Simply put, the State Department and Justice Department suddenly and completely reversed their positions about the threats to public safety posed by plaintiffs' proposed actions. The settlement agreement threatens to undermine national security and the national defense of the United States by authorizing the posting and downloading of computer files allowing the fabrication of dangerous make-at-home firearms by any person anywhere in the world. These are the very concerns which prompted the government's intervention in the first place. Indeed, the information requested under the FOIA Request is critical precisely because it will help the Brady Center inform the public of the nature of the settlement action and determine a course of action to ensure that our national security is not threatened by the posting online of Defense Distributed's CAD files.

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Louis S. Segesvary, Ph.D.

October 3, 2018

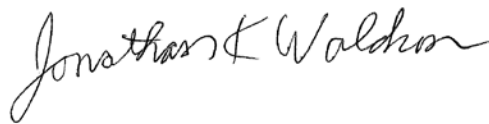
Page 5

The State Department's abrupt reversal on a matter of national security raises serious doubts about the propriety of its actions. For example, the State Department potentially exceeded its delegated authority by failing to provide the requisite notice to Congress and/or by failing to obtain the Secretary of Defense's concurrence to the terms of the settlement. It is also unclear whether the State Department's actions were proper in light of the President's public statements objecting to the settlement agreement.

Documents sought by the FOIA Request will provide critical information concerning the settlement and the circumstances behind it, including, for example, the reasons for the government's reversal of opinion and propriety of its decision to capitulate to Defense Distributed. This information is urgently needed in order to inform the public concerning the government's activity and to assist the Brady Center (and other potential litigants) in determining a way to prevent the posting online of Defense Distributed's CAD files. Because these CAD files pose very real threats to our national security and to individual lives, there is a compelling need for the FOIA Request to be processed expeditiously and thus this request clearly meets the "compelling need" standards under 5 U.S.C. § 552(a)(6)(E)(i)(II).

We appreciate your prompt consideration of this request. In accordance with 22 C.F.R. § 171.11(f), please provide notice of your determination whether to grant expedited processing within 10 calendar days of the date of the receipt of this request. If you have any questions, or if we can be of any assistance in expediting this request, please contact us at (202) 772-5963.

Sincerely,

A handwritten signature in black ink, reading "Jonathan K. Waldron". The signature is fluid and cursive, with the first name "Jonathan" and last name "Waldron" clearly distinguishable.

Jonathan K. Waldron

Cc: Joshua Scharff, the Brady Center (via email)

TAB H



United States Department of State

Washington, D.C. 20520

October 23, 2018

F-2018-05229

Joshua Scharff
Brady Center to Prevent Gun Violence
840 First Street NE, Suite 400
Washington D.C. 20002

Dear Mr. Scharff:

The Department of State, Office of Information Programs and Services, acknowledged the receipt of your Freedom of Information Act (FOIA) request dated July 16, 2018, pursuant to FOIA 5 U.S.C. § 552, to the Department of State (DOS), in which you requested records relating to the settlement reached between the parties in *Defense Distributed v. United States Department of State*. Your request was modified on October 16, 2018 when you confirmed to the Department of State, Office of Information Programs and Services that you were seeking expedited processing.

The Department of State, Office of Information Programs and Services (IPS) received your original FOIA request on July 16, 2018. Your FOIA request was assigned the tracking number at the top of this letter. Please include the tracking number in all future communications concerning this FOIA request. We have placed your request in the expedited processing category.

This Office has adopted a first in/first out practice of processing all incoming requests. Your request has been placed in chronological order based on the date of receipt and will be handled as quickly as possible. If you have any questions regarding the status of your request, you may contact our FOIA Requester Service Center or our FOIA Public Liaison via email at FOIAstatus@state.gov or telephone at (202) 261-8484.

We appreciate your cooperation with Dr. Louis S. Segesvary in narrowing the scope of your request, which will assist the Department of State, Office of Information Programs and Services in processing your records.

Sincerely,

A handwritten signature in cursive script, appearing to read "E. Stein".

Eric F. Stein, Director
Office of Information Programs and Services